

PUBLIC WORKS & UTILITIES COMMITTEE

12-0131R

RESOLUTION REQUESTING TO HOLD HARMLESS AND INDEMNIFYING THE STATE OF MINNESOTA IN CONNECTION WITH THE GRANTING OF A MINNESOTA STATE AID VARIANCE IN THE RECONSTRUCTION OF EAST OXFORD STREET, LIVINGSTON AVENUE AND GLENWOOD STREET.

CITY PROPOSAL:

The city council finds:

- a) That it is deemed necessary for the public conveyance and safety that East Oxford Street, Livingston Avenue and Glenwood Street between Woodland Avenue and Snively Road (city project no. 0439TR) be reconstructed; and
- b) That this project will not be eligible for municipal state aid funds unless it is constructed to state aid standards for arterial roadways of urban (new or reconstruction) projects, or unless a variance is granted; and
- c) Practical limitations require that tighter horizontal curves than dictated by standards be used. This results in a 16 mph design speed in lieu of a 30 mph design speed, which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300; and
- d) The city council passed Resolution 11-0633, requesting said variance, on November 29, 2011; and
- e) The Minnesota Department of Transportation state aid engineer granted said variance on the condition that the city council hold harmless the state of Minnesota.

RESOLVED, that the city of Duluth agrees to indemnify, save, and hold harmless the state of Minnesota and its agents and employees of and from claims, demands, actions or causes of action arising out of or by reason of the granting of said variance, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever

arising as a result of the granting of this variance.

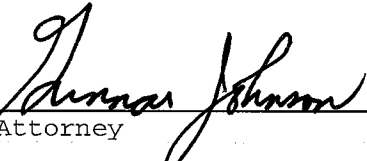
Approved:

*for*   
\_\_\_\_\_  
Department Director

Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

ENG GS:jh 3/6/2012

STATEMENT OF PURPOSE: Resolution 11-0633 requested a variance which has now been granted by the state, contingent upon the city providing the necessary "hold harmless" language that the state now requires. This resolution, once passed by the city council, fulfills this obligation to the state.

